

- (b) Intentionally setting prices purportedly on a competitive basis when such prices were the result of collusion;
- (c) Instructing members of the conspiracy at the above-described meetings not to divulge the existence of the conspiracy to others not in the conspiracy;
- (d) Treating cartel agreements and meetings as confidential and proprietary information;
- (e) Establishing a secret process for arbitrating disputes over illegal agreements to maintain prices or restrict supply;
- (f) Participating in meetings and conversations to monitor and enforce adherence to the agreed-upon price and supply agreements.

## **VII. INJURY TO PLAINTIFFS**

60. Defendants' combination and conspiracy have had the following effects, among others:

- (a) The price of magnesite and magnesite products purchased by plaintiffs (and the plaintiff classes) has been fixed, raised, maintained and stabilized at artificial and non-competitive levels;
- (b) Competition in the sale of magnesite and magnesite products has been restrained.

## **VIII. THE NEED FOR INJUNCTIVE RELIEF**

61. During the period covered by this Complaint, plaintiffs have purchased magnesite and magnesite products from defendants and/or are purchasers of magnesite and magnesite products requiring injunctive relief. By reason of the alleged violations of the antitrust laws, plaintiffs paid more for magnesite and magnesite products and substitute products than they would have paid in the

absence of the illegal combination and conspiracy, and as a result they have been injured and have suffered damages in an amount presently undetermined.

62. It is in the public interest to enjoin the defendants from continuing to operate a conspiracy and combining to fix the prices of magnesite and magnesite products.

63. Plaintiffs and the classes will continue to be injured by the defendants' ongoing conduct in violation of the antitrust laws of the United States in the absence of injunctive relief.

**IX. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray:

A. That the Court determine that this action may be maintained as a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure and direct that reasonable notice of this action, as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be given to all members of the plaintiff classes;

B. That the unlawful combination and conspiracy alleged herein be adjudged and decreed to be an unreasonable restraint of trade or commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1;

C. That plaintiffs and each class member of the damages class recover three-fold their damages, as provided by law, determined to have been sustained by each of them (using such damage methodologies as may be appropriate at trial), and that joint and several judgments in favor of plaintiffs and the plaintiff classes be entered against defendants and each of them;

D. That defendants be enjoined from continuing the currently ongoing unlawful combination and conspiracy alleged herein and other appropriate injunctive relief;

E. That plaintiffs and the plaintiff classes recover their costs of this suit, including reasonable attorneys' fees, as provided by law; and

F. That plaintiffs and the plaintiff classes be granted such other, further and different relief as the nature of the case may require or as may be deemed just and proper by this Court.

**JURY DEMAND**

Plaintiffs demand a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil

Procedure, of all issues triable of right by a jury.

Dated: September 7, 2005



David S. Stone (DS8580)  
Robert A. Magnanini (RM7356)  
BOIES, SCHILLER & FLEXNER LLP  
150 John F. Kennedy Parkway, 4<sup>th</sup> Floor  
Short Hills, NJ 07078  
Tel: (973) 218-1111  
Fax: (973) 218-1106

Willie L. Hudgins, Jr.  
John B. Brew  
COLLIER SHANNON SCOTT PLLC  
3050 K Street, NW  
Washington, DC 20007  
Tel: (202) 342-8586  
Fax: (202) 342-8451

William A. Isaacson  
Tanya S. Chutkan  
BOIES, SCHILLER & FLEXNER LLP  
5301 Wisconsin Avenue, NW, Suite 800  
Washington, DC 20015  
Tel.: (202) 237-2727  
Fax: (202) 237-6131

Edmund W. Searby  
Walter W. Noss  
SCOTT + SCOTT, LLC  
33 River Street  
Chagrin Falls, Ohio 44022  
Tel: (440) 247-8200  
Fax: (440) 247-8275

UNITED STATES DISTRICT COURT

District of New Jersey

**SUMMONS IN A CIVIL ACTION**

Animal Science Products, Inc. and  
Resco Products, Inc.

V.

CASE NUMBER:

China National Metals & Minerals  
Import & Export Corporation, et al.

TO: **Minmetals, Inc.**  
**120 Schor Avenue**  
**Leonia, NJ 07605**

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY

an answer to the complaint which is served on you with this summons, within \_\_\_\_ days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
DATE

\_\_\_\_\_  
(By) DEPUTY CLERK